RECENT DEVELOPMENTS IN TAXATION IN OHIO

SUMMARY

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I

THE Ohio constitution of 1851, substantially following the Kelley tax law of 1846,[1] fastened the general property upon the state by its provision that

"Laws shall be passed, taxing by a uniform rule, all moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise; and also all real and personal property, according to its true value in money. . . ."[2]

An act of 1852[3] brought the tax laws more fully into accord with the new constitution, and acts of 1859[4] and 1878[5] codified the various scattered provisions of the statutes relating to taxation. Aside from the development of the tax on foreign insurance companies, of the franchise tax on the capital stock of corporations, of the excise taxes upon public service corporations, and

[1] 44 Ohio Laws, 85; amended by 45 Ohio Laws, 60.

[2] Article XII, Section 2, Constitution of Ohio.

[3] 50 Ohio Laws, 135.

[4] 56 Ohio Laws, 175–218.

[5] 75 Ohio Laws, 436–507.

of the " unit rule " in the assessment of the property of express, telegraph and telephone companies [1] there was little important tax legislation during the next half-century.

The beginning of the recent tax reform movement in Ohio may fairly be dated from the report of the Honorary Commission of 1908, which directly attacked the general property tax, as well as the administrative system which had resulted from a half-century's piecemeal legislation. The recommendations of the commission were: (1) a constitutional amendment abolishing the general property tax; (2) a state tax board to administer all laws for the collection of state revenues and to make recommendations; (3) more frequent appraisement of real estate; (4) the separation of state and local revenues; and (5) publicity in local taxation.[2]

The recommendations which related to administrative features of the tax system were, on the whole, cordially received. An act of March 12, 1909,[3] as amended in 1910,[4] provided that appraisals of real estate for purposes of taxation should be quadrennial, instead of decennial as theretofore. The unsatisfactory character of these infrequent appraisements is made clear by an examination of assessed valuations between 1871 and 1910. During this period the valuation of land and improvements increased $631,325,597. Between the decennial appraisals, assessors of personalty were required to make additions for new buildings and deductions for destroyed buildings: the net additions to the real estate duplicate on this account amounted in

[1] For a convenient account of these taxes, see E. L. Bogart, Financial History of Ohio (vol. i of the University of Illinois Studies in the Social Sciences), pp. 323–329, 336–345. This and later legislation is also described by Professor Bogart in the American Economic Review, vol. i, pp. 505–518. Possibly the liquor tax should be included in the list of important tax legislation.

[2] Report of the Tax Commission of Ohio, 1908, pp. 34–45.

[3] 100 Ohio Laws, 81.

[4] 101 Ohio Laws, 7.

this period to $610,135,064.[1] That is to say, in forty years the increment of land value in the entire state, as shown by tax assessments, amounted only to $21,190,533! In contrast with this, the equalized value of real estate in 1911, the year of the first quadrennial appraisement, was $1,661,000,000, or 154 per cent larger than the valuation of 1910. The state has now, by the act of May 6, 1913,[2] accepted annual appraisements of real estate.

The recommendation for a permanent tax commission was adopted by the act of May 10, 1910,[3] amended May 31, 1911.[4] That body was charged with the administration of the franchise and excise taxes upon corporations, with the assessment of the property of public utilities [5] (formerly assessed by various *ex-officio* boards), and with the equalization of bank shares and of real estate valuations. In marked contrast with the character of previous state boards of equalization, the commission was constituted a true board of assessment, and not merely a board of equalization, through the injunction to see to it that all property is assessed for taxation at its true value in money. The commission was also given general supervisory power over the assessment of property, with authority to order a reappraisement of the real or personal property in a taxing district, to appoint appraisers for such reappraisements, to reconvene boards of review and equalization, and to raise or lower the assessed valuation of any real or personal property. The law, however, still vested in the auditor of state considerable authority over local assessing officers, mainly incident to his

[1] Report of the Tax Commission of Ohio, 1911, p. 25.

[2] 103 Ohio Laws, 786.

[3] 101 Ohio Laws, 399.

[4] 102 Ohio Laws, 224.

[5] The term was now much extended as compared with its former definition.

authority to prescribe the form of the tax statement.[1] The act of 1913 [2] makes the tax commission unequivocally the head of the assessment machinery of the state.

The act providing for quadrennial appraisement required the publication of pamphlet lists of real estate valuations, giving lot and street numbers or other description, and feet frontage or acreage.[3] The act of 1913 requires a quinquennial list, and a list of changes in valuations in intermediate years. The quinquennial lists are required to show separately the valuation of improvements, minerals and mineral rights.[4]

Other recommendations of the commission have not fared so well at the hands of legislature and people. Complete separation of the sources of state and local revenue has not been achieved, altho there has been but a small state levy since 1902, — not, indeed, for general state purposes, but for common schools, universities and sinking fund.[5] The legislature has taken no action on this recommendation, except as state revenue from special sources has been augmented by increases in the rates of the excise and franchise taxes. The tax commission proposed in 1911 that the county should be made the unit for school purposes, thus dispensing with the state common school levy, and that the sinking and university funds be made a charge on the general revenues, together with any state aid required for common schools in the poorer districts. In case the general revenue fund should prove inadequate for these additional demands upon it, the commission proposed to

[1] Section 5366, General Code of 1910.

[2] 103 Ohio Laws, 786.

[3] 100 Ohio Laws, 81, amended by 101 Ohio Laws, 7.

[4] 103 Ohio Laws, 786, Sections 22 and 23.

[5] The sinking fund levy provides the interest on the so-called "irreducible debt" of the state, which consists of funds derived from the sale of school and university lands and from special endowments, and received by the state as a perpetual 6 per cent loan. Practically all the interest on this debt is used for educational purposes.

apportion the needed state tax among the counties according to total revenue raised.[1]

The desirability of separation has occasionally been questioned on the double score of inadequate support of the common schools, and of insignificance of the present levy.[2] The plan of the tax commission would seem to dispose of the first of these objections,[3] while the hard fact that the state levy, tho small, was one of the factors considered by real estate appraisers in 1910 in determining what valuation to place on property, casts doubt on the sufficiency of the second objection. For entirely different reasons, separation is not now a pressing problem in Ohio. The system of centrally appointed county assessors established by the act of 1913 has resulted in more uniform assessments not only within the county, but also throughout the state, through the removal of dependence upon the favor of the local electorate. The power of the tax commission to promulgate rules and regulations for the valuation of property, and to equalize valuations, has also tended to secure greater uniformity. With uniformity secured, separation as a measure of mere tax reform loses much of its importance.[4]

The proposal to abolish the general property tax is the only recommendation of the commission of 1908 on which adverse action has been taken. At the regular election in that year an amendment which would liberalize the taxation article of the constitution was submitted to the electors and received 339,747 affirma-

[1] Report, 1911, pp. 38–40.

[2] See, for example, E. L. Bogart, Financial History of Ohio, pp. 253, 254; also American Economic Review, vol. i, p. 515.

[3] Moreover, the state is obligated, under certain conditions, to contribute to the tuition fund of impecunious school districts. Sections 7595, 7596, 7597, General Code of Ohio.

[4] For somewhat similar views as to the effects of centralized tax administration, see T. S. Adams, in First National Conference on State and Local Taxation (1907), pp. 515–527; and C. J. Bullock, in Quarterly Journal of Economics, vol. xxiv, pp. 437–458 (May, 1910).

tive votes and 95,867 negative votes; but under the constitutional rule then obtaining, the proposed amendment was declared lost because it had not received a majority of all votes cast at that election. A ceaseless controversy has since waged as to whether those not voting on the proposal can properly be held to have voted "no," or merely failed to vote through ignorance and carelessness.

The next step of the tax reformers was to secure the calling of a constitutional convention, which convened in January, 1912. Because dissatisfaction with the uniform rule of taxation was the principal cause of its calling, the convention was expected to afford some relief from that rigid rule, if not to provide in terms for classification, with low rates upon intangible property. Probably largely because of the prominence of the single taxers in the convention, the proposal to classify property became confused in the minds of many delegates with the single tax, and was therefore opposed. Moreover, the state tax commission strongly advocated the retention and extension of the uniform rule.[1] It should further be remembered that Ohio's well-earned reputation for drastic tax legislation is the direct outgrowth of a very general popular acceptance of the uniform rule; in the words of Chairman Dittey, "the people of this state are wedded to the theory of a general property tax." These considerations afford the explanation of the overwhelming majority by which the convention voted to re-submit the uniform rule, together with a provision for the taxation of bonds of the state or of its political subdivisions issued after January

[1] See the addresses of Chairman Dittey entitled: "Taxation; Proposed Constitutional Changes" (Pamphlet, Columbus, 1912); and "Uniform Rule and Tax Limit Legislation in Ohio" (Sixth National Conference on State and Local Taxation, 1912, pp. 215–233). Similar views are expressed in the Annual Report of the Tax Commission of Ohio, 1911, especially pp. 32–38. The writer has reviewed this report in the American Economic Review, vol. ii, p. 729 (September, 1912).

1, 1913. This proposal was adopted at the special election of September 3, 1912 by a majority of 19,175 in a total vote of 518,903, or about half the total vote in the regular election in November.[1]

The taxation of municipal bonds promised for a time to become the entering wedge for the revision of the taxation article along more liberal lines. As a result both of financial conditions and of the tax on municipals, issues made early in 1913 found a poor market, and could be sold only on an interest basis varying from one-half to one per cent above customary rates. That rates did not advance more sharply is due to the improbability that the bonds would actually be taxed.[2]

The result of the declining price of bonds was a movement in favor of the submission to the people of an amendment exempting all state and municipal bonds from taxation. Advocates of classification seized upon this opportunity to secure a revision of the fundamental rule of taxation. There was no reason to suppose that there had been a change in the attitude of voters on this question, but strong ground for hope of a favorable vote was afforded by the adoption in 1912 of a rule for amending the constitution, whereby an amendment carries if it receives the approval of a majority of those voting *on that question*. But the path of taxation amendments is not yet smooth, for a proposal to submit to the people an amendment providing for classification was overwhelmingly defeated in the legislature of 1913, while a proposal to exempt public bonds was approved by a large majority, only to be defeated at the polls by a vote of 312,232 to 340,570.[3]

[1] Report of the Secretary of State, 1912, p. 657. The amendment also provided for excise and production taxes and for progressive inheritance and income taxes; but these must be in addition to taxes on property. Constitution, Article XII, Section 2.

[2] The average rate of property taxation in the state is about twelve mills on the dollar; in the larger cities it is about fifteen mills.

[3] Report of Secretary of State, 1913, pp. 302, 303.

The foregoing review of past efforts to secure a more satisfactory taxation article in the constitution suggests that the people of the state are not ready to take a progressive attitude on the question of taxation. At the present time, public discussion of the tax question would seem at most to be of educational, rather than of immediately practical, value. Nevertheless, agitation for constitutional revision continues. As I write (December, 1914), the Columbus Chamber of Commerce is directing a campaign to induce the next legislature to re-submit the proposal to exempt public bonds; and during the past summer, a number of organizations under the active leadership of the Ohio State Board of Commerce initiated an amendment to the constitution which sought to provide a classified property tax, together with a narrow limitation of aggregate tax rates.[1] The proposal cannot be considered a satisfactory solution of Ohio's taxation problem. The inclusion of two such distinct projects in one amendment doubtless contributed to the decisive defeat[2] of the proposal at the November election, and robs the vote of significance as an indication of popular sentiment on classification.

II

Having now sketched the taxation situation as it developed under the immediate impulse of the recommendations of the commission of 1908, we may next examine Ohio's two most recent efforts to make the general property tax in fact what it is in name. I refer to tax rate limitation and centralized assessment.

[1] The text of the proposed amendment, with explanatory matter, is published in pamphlet form by the Ohio State Board of Commerce (Columbus), and may also be found in the Ohio Journal of Commerce for August 15, 1914.

[2] The vote on the amendment was 223,873 for and 551,760 against.

Soon after the reduction in the state levy on general property in 1902, attention was called to the rapid increase in local taxes. This increase had in fact begun somewhat earlier, altho in popular discussions it was commonly dated from 1902.[1] It was asserted that the "tax-spenders," finding their opportunity in the reduction of the state levy, were indulging in a riot of extravagance at the expense of the "tax-payers."

This view appears to me to have originated in the opposition of certain business interests to the development of special corporation taxes for the use of the state government. It is undeniably true that the development of special sources of revenue made possible the reduction of the state levy, but it by no means follows that that development was unwise, or that it was in any sense a cause of increasing expenditures. It is easy to show that the phenomenon of increasing local expenditures is not confined to Ohio,[2] and has other causes than official extravagance. It would, of course, be too much to claim that there has not been unwise and even

[1] The following table (compiled from the Reports of the Auditor of State) shows the per cent increases of local levies for the years specified over those of the year next preceding. For purposes of comparison, the per cent increases of state expenditures (compiled from Bogart, Financial History of Ohio, p. 141, and Auditor's Reports) are also given.

Year	Per cent Increase of Local Levies	Per cent Increase of State Expenditures	Year	Per cent Increase of Local Levies	Per cent Increase of State Expenditures
1898	0.11%	13.4%	1905	4.2%	−0.7% (Dec.)
1899	3.2	−7.2 (Decrease)	1906	5.1	7.1
1900	2.8	5.1	1907	8.5	1.8
1901	4.8	5.6	1908	5.4	24.8
1902	6.7	1.5	1909	5.7	11.6
1903	6.3	3.2	1910	6.2	−3.9 (Dec.)
1904	8.5	11.4	1911	5.8	8.9
1898–1911	97.0	89.8			
1902–1911	71.5	81.3			

[2] The expenditures of 146 cities in the United States increased 86.4 per cent from 1902 to 1911. (See Financial Statistics of Cities, 1911, p. 17.) In the same period, local levies in Ohio increased 71.5 per cent. Local levies provide the funds for the greater part of local expenditures, and therefore indicate fairly well the trend of local expenditures. City and village levies, not including those for public schools, increased 63 per cent from 1902 to 1911, while those for other local purposes, excluding schools, increased 65.1 per cent and school levies increased 89 per cent.

corrupt expenditure, but there can be little doubt that the principal causes of increasing local expenditures are the growth of population and the emergence of new needs.

The neglect of these considerations by the active representatives of the business interests of Ohio, as well as their attitude on various projects of legislation, gives color to the view that, in their desire to limit their own tax payments, they have been led to oppose the development and extension of the functions of government, and thus, in many cases, to place themselves in opposition to social progress. Nevertheless, their demand that tax rates be limited as a means of enforcing economy in public administration met with popular favor. The supposed advertising value of low tax rates was also urged. The argument for limited rates was put on firmer ground when it was shown that the prevalent evil of under-assessment of tangible property tended to force nominally high tax rates, and thereby to discourage the return of intangible property, the escape of which, in turn, operated to keep rates high. This phase of the argument approaches the common error of many advocates of a classified property tax in believing that a low rate of taxation will of itself bring intangible property out of hiding. To many, this belief in the "coaxing" power of a low rate became the principal reason for advocacy of rate limitation, a view which received some corroboration from the fact that the leaders in the agitation for low rates had also been leaders in the effort to secure classification.[1]

The approach of the first quadrennial appraisement of real estate in 1910 was an auspicious time for the inau-

[1] It should be borne in mind that in Ohio individuals and miscellaneous corporations are required by law to declare their personal property for taxation, and that this list stands unless assessing officials can show that it is incorrect, or can persuade the taxpayer to modify it.

guration of a state-wide campaign to secure a closer observance of the constitutional rule requiring the taxation of all property at its true value in money. It was also an auspicious time to secure converts to the rate-limitation propaganda, since the argument lay on the surface that the increase of tax valuations, if unaccompanied by rate limitation, would give the "tax-spenders" an opportunity greatly to increase the amount of taxes collected without incurring the political odium which commonly attaches to an increase of rates. And finally, the experience of West Virginia under legally limited rates [1] was cited as proof of the causal connection between low rates and high valuations, altho that connection obviously runs the other way.

Governor Harmon was interested in the plan, and what was practically an administration measure was introduced in the General Assembly and passed in an amended form May 10, 1910.[2] The title of the act is significant:

"To secure an equitable valuation of property for taxation by limiting the tax rate, limiting the power to issue bonds, removing certain penalties for improper valuation. . . ."

This act imposed no restrictions on the amount of taxes to be raised so long as the rate did not exceed ten mills on the dollar; but if the amount which could be raised by a rate of ten mills, — exclusive of additional amounts (over those levied in 1909) authorized for

[1] See T. C. Townsend, "Taxation Work in West Virginia," State and Local Taxation, vol. iv, pp. 165–178 (1910).

[2] 101 Ohio Laws, 430. The governor's recommendation is found in his Message, 1910, p. 6. The bill is described by Bogart, American Economic Review, vol. i, pp. 515–516. The popularity which the proposal had achieved is well illustrated by the statement of the Cleveland real estate appraisers before the Senate committee on taxation, that they had appraised realty at full value, but would enter the tax valuation at 40 per cent of full value unless the tax rate were limited. And these assessors had sworn to assess all property at its true value in money!

sinking funds or for specified emergencies, or by vote of the people, — should be less than the amount levied in 1909, plus certain percentages for years subsequent to 1910, then the rate might be increased to a maximum of fifteen mills, exclusive of levies for sinking fund and interest. Governor Harmon withheld his signature from the bill because of this elastic limit, and insisted that the amount of taxes levied in any year should be limited to that levied in 1909, and that the rate be limited to ten mills unless more should be "authorized by vote on propositions stating specifically purpose and amount." [1] The act of May 31, 1911, fortunately provided somewhat less rigid limitations. It made the levies of 1910 the norm by which future levies were to be determined. Except for emergencies or by vote of the people, levies made in 1911 might not exceed this norm; those of 1912 might exceed it by 6 per cent; those of 1913 by 9 per cent, and those of any subsequent year by twelve per cent. The levy was further restricted by limiting the tax rate to ten mills, exclusive of sinking fund and interest purposes, but this rate might be increased for emergencies or by vote of the people to a maximum of fifteen mills. Levies for service of debt were, however, still outside this limit of fifteen mills.[2] Levies for specific purposes were also limited and an *ex-officio* budget commission was created in each county to supervise the enforcement of the various limitations laid down in the law.

Opinion is sharply divided as to the merits of this so-called Smith one per cent law. Mayor Baker of Cleveland has publicly characterized it as "conceived in iniquity and born in sin." It has equally warm defenders. The influential *Ohio State Journal* has re-

[1] Governor's Message, Ohio Executive Documents, Pt. I, 1910, pp. 70–71.

[2] See below, p. 493.

peatedly referred to it editorially as " the best law ever put upon the statute books." It is impossible to give a complete and accurate statement of its results. It is quite probable that in some places extravagance has been checked, but it is even more certain that desirable expenditures have often been prevented.[1] The law seems to have borne most heavily on permanent improvements in school districts and in the larger cities, altho its full effects are doubtless not yet apparent. A number of taxing districts which had made little or no levy in 1910, because of an accumulated surplus, suffered considerable inconvenience through the limitation of levies to a percentage of the levy of 1910, rather than to a percentage of expenditures drawn from tax revenues. Careful financing in that year was thus penalized by inability legally to make adequate levies in succeeding years. Budget commissions have not infrequently been forced to disregard the law in order to enable some of the local governments to exist and transact business. Sinking funds, in particular, have been neglected. An act of 1913 [2] relieves this situation by eliminating that limitation of total levies which referred to the 1910 levy. It also changes the constitution of the budget commission in such a way as to give to school districts and larger cities greater influence in determining tax levies.[3]

In some cases, the difficulties experienced under the law were aggravated by reason of the prevalent belief

[1] See the criticism of the law by Mr. A. J. Nock in Collier's, June 15, 1912, and the comment thereon by Professor Bogart, American Economic Review, vol. ii, pp. 973, 974. For the point of view of school men, see J. F. Orr, Ohio Teacher, vol. xxxiii, pp. 354–359 (March, 1913).

[2] 103 Ohio Laws, 552.

[3] In counties where the greater part of taxable property is within cities and villages, the prosecuting attorney is displaced as a member of the commission by the solicitor of the largest city, who is *ex-officio* the legal adviser of the school board. In other counties the president or a member of the school board takes the place of the prosecuting attorney on the commission.

that levies for sinking fund and interest must come within the fifteen mills limitation. It is clear that in taxing districts heavily burdened with debt, such an interpretation might prevent highly desirable expenditures, even when the total levy was smaller in amount than the levy of 1910, as increased by the proper percentage. This interpretation was rejected by the supreme court [1] during the legislative session of 1913, when it affirmed the decision of the lower court approving a levy in excess of fifteen mills in order to provide for debt not yet existing, but about to be contracted on authority of a vote of the people. The decision drew from Governor Cox a special message urging that the legislature remove all ambiguity in the act and restore the maximum limitation, because tax-payers had been induced to return large amounts of property for taxation at full value, on a virtual pledge of the faith of the state not to exact a rate of more than fifteen mills.[2] His recommendation was followed, and the law now forbids a rate in excess of fifteen mills,[3] even tho it should prove impossible to provide for the barest needs of local government and also to provide for the debt.[4] Eminent legal authority, including the attorney-general and Mayor Baker of Cleveland, hold that this absolute limitation renders the law void, since it seeks to deprive the taxing district of the power to provide for its lawful obligations;[5] but the point has not been passed upon by the courts.

[1] Roose *v.* State, 87 Ohio State, 513. Reported without opinion.

[2] Governor's Message, January 29, 1913.

[3] 103 Ohio Laws, 57. For the road tax in excess of this limitation, see below, p. 502.

[4] In many cases, this contingency has been provided for, at least temporarily, by an increase in the assessed valuation of property in 1914. See below, p. 511.

[5] See F. W. Coker, "Administration of Local Taxation in Ohio," Annals Amer. Acad., May, 1913.

Notwithstanding the difficulties experienced under rate limitation, it has been proposed to write the ten mill limit into the fundamental law. The administration has at times lent a sympathetic ear to the suggestion, but an initiated amendment to the constitution, which proposed a more rigid limitation of the tax rate than the state has yet tried, was defeated at the November election. The proposed amendment also provided for a classified property tax; if rate limitation could have been voted on separately, it seems not unlikely that it would have been approved.

While the influence of the Smith law on expenditures is a mooted question, it is possible to speak much more definitely of its influence in inducing the voluntary return of property which under the higher rates had escaped taxation. It must be remembered, however, that the agitation in favor of more honest returns and truer valuations of property, which was described above,[1] affected assessing officials as well as tax-payers; in particular the work of the appointive city boards of review showed the effect of this stimulus. An increase in assessed valuation may accordingly reflect heightened administrative efficiency as well as the "coaxing" power of low rates.[2]

We may take as the basis of our comparison the assessed valuation of property as it stood in 1910. The tax limit act of 1910 became effective January 1, 1911, and therefore had no effect on the assessment of personalty in 1910, while the real estate appraisal of 1910 did not become effective as a basis for tax levies until 1911. When property was being appraised in 1911, however, not only was the campaign for listing at true value

[1] See p. 501.

[2] It should be added that the law indemnified "tax-dodgers" for past sins by enacting that penalties for evasion should not go back of 1911. 102 Ohio Laws, 266, Section 2.

renewed and the rate limitation act in force, but it was also apparent that the legislature would soon impose still further restrictions on the tax rate. Moreover, the assessment of public utilities and the equalization of the valuation of bank shares and of real estate was now entrusted to the tax commission. The combined result of these forces was a marked increase in the amount and valuation of all kinds of property on the tax duplicate. The assessments fixed in 1912 and 1913 are, however, a fairer test, because the tax limit law was then better understood. The subjoined table [1] shows the percentile increases in the assessed valuation of various kinds of property over the valuations of 1910:

[1] Tables I and II are derived from the following figures compiled from the Reports of the Auditor of State for 1910–12, and of the Tax Commission for 1910–13. The figures are not in entire agreement. I have used those given by the commission for public utilities and for banks in 1910, altho this figure may include bank realty. The figures for miscellaneous corporations, 1910–12, are arrived at by subtracting the valuations taken for banks and utilities from the amounts for incorporated companies. All intangible property of corporations which is separately stated by the auditor has been assigned to miscellaneous corporations. Finally, I have felt warranted in increasing the 1910 total for corporate personalty by the amount of the discrepancy in the auditor's statements.

PROPERTY VALUATIONS BY SPECIFIED CLASSES, 1910–1913

(Amounts in millions of dolllars)

Class of Property	1910	1911	1912	1913
Personal Property				
Corporate Personalty	466.9	1,383.2	1,535.3	1,698.2
Banks	80.7	145.8	147.3	184.2
Public Utilities	226.2	912.9	994.0	1,058.2
Miscellaneous	160.0	324.5	394.0	455.8
Tangible	Not separable	260.1	319.1	394.0
Intangible	Not separable	64.4	74.9	61.8
Personalty of Individuals	360.5	547.0	606.9	632.3
Tangible	220.8	361.0	375.0	392.5
Intangible	139.7	186.0	231.9	239.8
Total Intangible Personalty	(?)	250.4	306.8	301.5
Total Personalty (as in Auditor's "Table VI")	789.6	1,930.2	2,142.1	2,330.5
Discrepancies	37.8	−2.3	3.3	−30.4
Personalty on Duplicate	827.4	1,927.9	2,145.4	2,300.1
Real Estate	1,656.9	4,273.4	4,335.7	4,419.0
Grand Duplicate	2,484.3	6,201.3	6,481.1	6,719.1

TABLE I

PER CENT INCREASES IN PROPERTY VALUATIONS OVER 1910

Class of Property	Per cent Increases 1911	1912	1913
Real Estate	158	162	167
Personal Property	133	159	178
Corporate Personalty	196	229	264
Banks	80	82	128
Public Utilities	304	339	368
Miscellaneous	103	146	185
Personalty of Individuals	52	68	62
Tangible	63	70	56
Intangible	33	66	72
All Property	149	161	170

It is apparent from the above table that the most noteworthy increases in taxable valuations have occurred in those fields in which the influence of the state tax commission has been strongest.[1] In other words, the great additions to the grand duplicate of the state in the three years following 1910 are for the most part due to central assessment or equalization of the valuations of banks, public utilities and real estate,[2] rather than to fuller returns of their property by tax-payers under the inducement of limited rates. Even in those cases where the assessment is based directly on the declaration of the tax-payer (individuals and miscellaneous corporations), improved assessment work, as previously noted, has contributed to the increase of valuations. Altho relatively much less than in the case of assessments definitely fixed by the tax commission, the increases in the valuations returned to county auditors and local assessors are yet considerable; within the three years

[1] The discrepancies between the reports of the auditor and tax commission make it seem not improbable that these increases are too low in the case of banks. But the classification of corporate property is necessarily somewhat provisional.

[2] The original valuation of real estate as fixed by the assessors in 1910 showed an increase of 126 per cent over the amount then on the duplicate; to this valuation the tax commission added nearly $500,000,000, or 25 per cent. See Report of the Tax Commission, 1911, Appendix.

the assessments charged against miscellaneous business corporations increased $295,000,000,[1] those in respect of the tangible personalty of individuals increased $170,000,000, and those in respect of individually-owned intangible property increased $100,000,000.

The change in distribution of the tax burden among the owners of the various classes of property is, however, a more significant test of the results of the Smith law than the increase in valuations. Table II exhibits these changes.

TABLE II

PER CENT DISTRIBUTION OF PROPERTY, BY CLASSES, 1910–1913

Class of Property	Per cent distribution			
	1910	1911	1912	1913
Real Estate	66.7	68.9	66.9	65.8
Personal Property	33.3	31.1	33.1	34.2
Corporate Personalty	18.8	22.3	23.7	25.3
Banks	3.2	2.4	2.3	2.7
Public Utilities	9.1	14.7	15.3	15.7
Miscellaneous	6.5	5.2	6.1	6.8
Tangible (Not Separable)		4.2	4.9	5.9
Intangible (Not Separable)		1.0	1.2	.9
Personalty of Individuals	14.5	8.8	9.4	9.4
Tangible	8.9	5.8	5.8	5.8
Intangible	5.6	3.0	3.6	3.6
Total Intangible Personalty	(?)	4.0	4.7	4.5

The significant changes in the immediate incidence of the tax burden which are brought out by the table are the increase in the share of taxes falling upon public utilities from 9.1 per cent of the total in 1910 to 15.7 per cent in 1913, and the decline in the share borne by individuals, whether in respect of the ownership of tangible or of intangible property. The increase in the

[1] The valuation of miscellaneous corporations appears to be very low, when compared with their returns to the commissioner of internal revenue. The figures are of course not strictly comparable; but miscellaneous corporations having their principal place of business in Ohio reported in 1914 a stock capitalization of $1,679,000,000 with taxable income of $196,500,000, which is 11.7 per cent on the capital. The property of miscellaneous corporations in Ohio was valued in 1913 at $455,800,000.

share of taxes falling upon public utilities is to be attributed mainly to the activity of the tax commission in correcting the gross under-assessment which had prevailed prior to 1910. By contrast with the increase in the share borne by public utilities, the decrease in the share of taxes falling upon miscellaneous corporations and individuals from 21 to 16.2 per cent emphasizes the failure of self-assessment even under limited tax rates. The cherished hope that limited rates would avail to place a juster share of the burdens of government upon the owners of intangible property has been sorely disappointed, for such property has of recent years formed a smaller proportion of all property on the duplicate than ever before. The amount of taxes assessed to individuals in respect of their ownership of intangible property, computed at the average tax rate prevailing in the state, was 36 per cent less in 1912, and 27 per cent less in 1913, than in 1910, altho within the period the total amount of taxes levied upon property was increasing.

We may next inquire whether the relative decline in the valuation of the personalty of individuals and miscellaneous corporations can be viewed with satisfaction, as representing merely an equalization of assessments, or whether there continues to be under-assessment and evasion in the assessment of these classes of property.

It is, of course, not possible to estimate the amount of taxable personalty owned by individuals. The total amount of certain classes of intangible property may indeed be approximated, but its ownership is an unsolved riddle. Nevertheless, certain comparisons may be instituted which will throw some light on the relative efficiency of the assessment of different sorts of property.

The entire amount of intangible property listed for taxation by individuals and miscellaneous corporations

in 1912 was $306,756,000, of which $119,202,000 represented " moneys on hand or on deposit subject to order." Ten days after tax-listing day, incorporated banks in Ohio reported individual demand deposits aggregating $357,735,000. At the same date these banks reported time deposits of $331,321,000, and during the year building and loan associations reported deposits of $57,468,000. On June 14, 1912, private banks reported to the comptroller demand deposits of $11,168,000, and other deposits of $13,088,000. Demand deposits therefore aggregated $368,903,000; time deposits, $401,877,000. Time deposits are, under a ruling of the attorney general, taxable as moneys if they are actually paid on demand; otherwise they are taxable as credits and may be offset by debts. Probably most of them are in strictness taxable as moneys. If so, the true amount of moneys approximated $770,000,000.[1] A considerable portion of these deposits must have stood to the credit of public utility companies; but since it is improbable that such concerns carry any large amount of time deposits, it seems fair to conclude that their deposits could at most account for the demand deposits in excess of the amount of moneys returned. The amount of bank deposits in Ohio which were legally taxable as moneys to individuals and miscellaneous corporations must therefore have been nearly $500,000,000.

The amount of other items of intangible property — credits and investments — cannot be so readily estimated. Mortgages may be omitted from the estimate, because they are so largely held by banking institutions and insurance companies, and are thus taxed indirectly

[1] The year 1912 is chosen for this comparison because the state department of banking issued no call in April, 1913. The returns of all classes of banks to the Comptroller of the Currency as of June 4, 1913, show deposits aggregating $821,331,000. The amount of moneys returned by individuals and miscellaneous corporations as of April 13, 1913, was $112,695,000, and the total amount of intangible property so returned was $301,537,000.

if at all.[1] No doubt a considerable portion is privately owned and hence directly taxable; but the amount cannot be estimated. Neither is it possible to estimate the volume of credits arising to merchants and professional men of all classes, nor in any case, the extent to which credits are offset by *bona fide* debts. One clue to the amount of credits and investments may indeed be had: the statistics of corporate indebtedness compiled by the commissioner of internal revenue. For 1912, this amounted to $1,320,000,000.[2] Some of this indebtedness is of course owned outside the state, and hence not taxable in Ohio; but in view of the great wealth of the state, it seems probable that this amount is more than offset by the indebtedness of foreign corporations owing to residents of Ohio. Some part of the debt is, again, not worth par. But when every allowance is made, it is evident that here is a vast mass of credits and investments legally taxable in Ohio, but actually untaxed.

This attempt to estimate the amount of intangible property in Ohio takes no account of taxable stocks of foreign corporations,[3] nor mortgages, nor credits other than those owing by banking and other corporations in Ohio, not all of which can be reasonably supposed to have been offset by debts. In view of these omissions and of the large volume of bank deposits and corporate indebtedness, it seems unlikely that more than a fifth or a sixth of the amount of intangible property legally taxable to individuals and miscellaneous corporations

[1] Banks are taxed on a valuation of their stock, in the name of the shareholders; building and loan associations are exempt from taxation on their mortgages, and domestic insurance companies commonly invest their legal reserve in mortgages, and may then deduct their reserve from their mortgages for purposes of taxation. General Code of Ohio, Sections 5404, 5411, 5412, 9357 and 9675.

[2] Report of the Commissioner of Internal Revenue, 1912, pp. 81–84.

[3] The shares of foreign corporations two-thirds of whose property is taxed in the state are, under certain further conditions, exempt from taxation in Ohio. The shares of all domestic corporations are exempt. General Code, Section 192.

was actually so taxed.[1] The inadequacy of the assessment of intangible property is all the more apparent when contrasted with the assessment of real estate and the property of public utilities, both of which seem to be on the tax duplicate at substantially their true value in money. For example, the average value per acre of farm realty fixed at the quadrennial appraisal of 1910–11 was $67.86, which compares with $68.62, the value found by the census in 1910.[2]

The experience of Ohio has thus demonstrated the possibility of vastly improving the assessment, even of the more easily concealed sorts of property, under a listing system administered by locally elected assessors, supplemented by moderately limited tax rates. But it has equally demonstrated the futility of relying on that system to secure even reasonably complete returns of intangible property while the tax rate remains in the neighborhood of one or one and a half per cent. Moreover, in view of the constant expansion of public expenditure, under the stress of growing population and of even more rapidly growing demands upon the public service, and in view also of the enforced dependence of the local governments of the state upon a uniform tax on general property as their chief source of revenue, there can be little hope of any material reduction in the tax rate.

Already the heavy burden of debt charges and the increasing demands upon government threaten to break down the limitations imposed by the Smith law. A list has been compiled of thirty-six municipalities,

[1] In its report for 1911 (p. 6) the tax commission holds that the amount of taxable intangible property in the state is commonly over-estimated. The only evidence offered in support of this conclusion is a reference to the extent of the exemption of securities and an assertion that inventories of estates under probate indicate that a majority of residents invest in non-taxable securities or in tangible property.

[2] Report of Auditor of State, 1911, p. 593; Census, 1910, vol. vii, p. 307.

including four of the larger cities, whose annual payments for interest and sinking fund purposes consume from 40 to 71 per cent of their gross tax revenue.[1] Perhaps the most striking illustration of increasing demands upon government is seen in an act of 1913, which compels a levy of one-half mill upon each dollar of taxable property in each county, the proceeds to be used for the construction and maintenance of market roads.[2] This levy is superior to all limitations upon the tax rate, and the legal maximum rate is therefore now fifteen and one-half mills. Other departures from the Smith law grew out of the disastrous floods which visited large areas of Ohio in the spring of 1913, and necessitated large emergency expenditures for repair and reconstruction of roads, bridges and other public improvements. Public authorities were at once authorized to borrow money for these purposes and to levy taxes for interest and sinking fund payments without regard to existing limitations upon the borrowing power or upon the tax rate.[3]

The pressure upon the revenues from property taxes has, moreover, been somewhat augmented by the reduction in the revenues from the liquor traffic under the constitutional amendment adopted in 1912,[4] which limits the number of saloons to one for each five hundred of the population. This had the effect of reducing the number of saloons in the forty-three " wet " counties of the state from 8,485 to 5,523.[5] The excise tax on saloons is $1,000; so that the revenue of the state and

[1] Governor's Message, July 20, 1914.

[2] 103 Ohio Laws, 155, amended by 102 Ohio Laws, 862. This act followed hard upon the defeat of a proposed constitutional amendment in 1912, which would have permitted the issuance of $50,000,000 of bonds for similar purposes.

[3] 103 Ohio Laws, 141, amended by 103 Ohio Laws, 760.

[4] Section 9 of Article XV, Constitution of Ohio.

[5] Statement by Auditor of State to press, April 29, 1914.

its subdivisions from this source declined $2,962,000.[1] Of this loss of revenue, more than $1,500,000 fell upon the eight counties containing the largest cities of the state (those having over 50,000 population in 1910).[2] So precarious had the financial condition of the cities become by last spring, that a commission was created to investigate the subject,[3] altho hopes are entertained that the difficulty will be relieved by the improvement in the assessment of property, which is next to be discussed.

III

The recommendation by the constitutional convention and the adoption by the people of the amendment re-enacting the uniform rule and restoring the tax upon municipal bonds [4] was quite naturally interpreted by the tax commission as a mandate from the people to draft a bill which should not only provide the administrative machinery believed to be necessary to secure an efficient assessment of property, but should so revise the definitions of taxable property and the rules of valuation as to conform to the commission's idea of a general property tax, and include property and values now untaxed. These ideas were submitted to the governor and assembly in the form of a bill with explanatory notes.[5]

[1] Since the revenue from the liquor traffic is divided among state, county, and city or township in the ratio of 3, 2, and 5, local liquor revenues declined more than $2,000,000. The loss of revenue to the state was compensated by certain fees payable to the state liquor license board.

[2] The estimates of revenue are based upon statements given to the press. The total revenue from the liquor traffic is likely to be somewhat increased under the "home rule" amendment adopted November, 1914, which substitutes local option for county option on the question of saloons. But this can hardly increase the revenues of the larger cities, which were already "wet."

[3] 104 Ohio Laws, 192. The commission is to report in December, 1914.

[4] See above, p. 486.

[5] Recommendations of the Tax Commission of Ohio. Columbus, February 20, 1913. P. 123.

The bill proposed to make changes (1) in the administrative machinery, (2) in the definition of taxable property and the rules of valuation and situs, and (3) in the provisions for the collection of taxes. Since the collection of taxes is a phase of tax administration quite distinct in interest from the principles of taxation and the assessment machinery intended to enforce the principles, it may be passed over in this paper.[1]

Altho the sections of the bill which proposed to change the definition of taxable property and the rules of valuation did not receive legislative sanction, it seems worth while briefly to discuss them because they show what measures the state may be driven to adopt, by the pressure for more revenue, if it adheres to the general property tax and to rate limitation. The spirit of the bill is well suggested by the definition of the term "personal property" to include

> "every thing, interest, right or privilege, all and singular, of whatsoever kind, name, nature or description, being the subject of ownership, which the law may define or the court interpret, declare or hold to be property, whether animate or inanimate, tangible or intangible, corporeal or incorporeal, other than and not forming part of a parcel of real property, as defined in this chapter. . . ."

Other sections of the bill define with considerable particularity various specific kinds of property. Mortgages are defined as money loaned by residents, secured by lien on real estate without the state; money loaned by residents or non-residents and secured by lien upon real estate within the state; and all sums owing to residents or non-residents, secured by lien on any real or personal property within the state and belonging to any corporation or public utility. Mortgages and bonds secured by lien on property within the state could thus be inevitably taxed, wherever owned, by making the tax a lien on

[1] This part of the commission's proposed bill was introduced in the Senate by Mr. Haas, but did not come to a vote.

the mortgaged property; but no deduction from the valuation of the mortgaged property was contemplated, as is the usual practice where mortgages are taxed where the encumbered property is located.

It is obvious that the adoption of this proposal would result in a much more flagrant case of double taxation of mortgages than the present system. Nor does it seem likely that such a plan would successfully run the gauntlet of the federal courts. In the leading case of *State Tax on Foreign-held Bonds*, arising in Pennsylvania, the court held that bonds owned by non-residents, altho secured by a mortgage upon property situated in the state, are property beyond its jurisdiction. In explanation, the court remarked that in Pennsylvania, a mortgage, tho in the form of a conveyance, is a mere security for a debt and *transfers no estate* in the mortgated premises.[1] In essential harmony with the Foreign-held Bonds case, the supreme court has since explicitly held that due process of law is observed and equal protection afforded, where the mortgage is taxed as land, wherever owned, and the mortgagor is permitted to deduct the mortgage from the value of his property.[2] The tax commission of Ohio expressly refused to regard a mortgage as an interest in real estate: to do so would imply the right of the mortgagor to deduct the mortgage debt from the value of his property for purposes of taxation.

Several later cases have upheld the right of a state to tax credits belonging to non-residents when those credits are in the hands of a resident agent, or arise from a regu-

[1] 15 Wallace, 300.

[2] Savings and Loan Society *v.* Multnomah County, 169 U. S. 421. Apparently in the effort to justify the Oregon legislature in regarding a mortgage as land, the court rejected its earlier interpretation of the Pennsylvania law as to the character of a mortgage there. See also Goodnow, "Congressional Regulation of State Taxation," Political Science Quarterly, vol. xxviii, pp. 405, esp. 412, 413 (September, 1913).

lar business carried on in the state.[1] The non-resident investor in the mortgage bonds of Ohio corporations or in mortgages on Ohio real estate will not ordinarily fall within these classes, and hence, it would seem, cannot be taxed by the state of Ohio except at the cost of permitting the mortgagor — whether corporation or individual — to deduct the debt from the value of the taxable property.

The present law defines credits as the excess of legal claims over *bona fide* debts. The proposed bill sought to increase the amount of taxable property by excluding mortgages from the category of legal claims, thus preventing the deduction of debts from the value of mortgages owned in arriving at their taxable value. This proposal was strongly opposed by domestic insurance companies, whose legal reserve is chiefly invested in mortgages and is therefore practically exempt from taxation under the law permitting the reserve to be regarded as a debt for purposes of taxation.[2] It was further proposed to confine the deduction of debts to those owing to residents.

The bill proposed also to tax the shares of all corporations at full value unless the entire corporate property was taxed in the state,[3] but this proposal occasioned such a storm of protest that the commission so far yielded as to propose (in the bill as introduced in the house) to tax such shares in that proportion of their value which the

[1] New Orleans *v.* Stempel, 175 U. S. 309; Bristol *v.* Washington County, 177 U. S. 133; Metropolitan Life Insurance Company *v.* New Orleans, 205 U. S. 395.

[2] Section 9357, General Code of Ohio.

[3] It had been the policy of the state since 1846 to exempt from taxation the shares of corporations all of whose property was taxed within the state. Acts of 1900 and 1902 exempted, under certain conditions, the shares of foreign corporations at least two-thirds of whose property was taxed within the state, and an act of 1904 exempted the shares of all domestic corporations. The last mentioned act would appear to be clearly unconstitutional, while the constitutionality of the act of 1902 has been questioned by high authority. See Report of the Honorary Tax Commission, 1908, p. 13, and Report of the Tax Commission, 1911, p. 5.

value of the property not taxed in Ohio bears to the value of the entire corporate property. Furthermore, the bill defined the " true value in money " of personal property as its " value for the purpose of sale, income or use," and particularly provides that " a mercantile, manufacturing or other plant, or any business of any kind . . . shall be listed and valued as a going concern." [1]

Several provisions of the bill looked to the strengthening of the powers of assessing officials in the discovery of taxable property. The powers of county auditors in attempting to discover concealed property had long been inquisitorial in a high degree; [2] the chief innovation in the proposed bill consisted in giving to the assessor, rather than to the assessed, the privilege and duty of placing the valuation on the property listed. The effect of this would be to place upon the tax-payer the burden of showing that the assessor's valuation was incorrect; whereas the burden now lies with the state to overthrow the tax-payer's valuation.[3]

The legislature of 1913 was strongly Democratic, and the administration had pledged itself to a large legislative program; so that it was altogether unlikely that so comprehensive and important a bill could be passed without active administrative support. The strength

[1] Altho this provision was not enacted into law, the tax commission, under its new power to prescribe rules and regulations, attempted to put it into effect, but was prevented from so doing, in the case of general business corporations, by a decision of the court holding that the law does not justify the making of any distinction between the assessment of the personal property of an individual and a corporation, except such as may be engaged in operating public utilities.

[2] It was under these powers that the practice of employing private inquisitors grew up and was later authorized by formal enactment. See Carver, " The Tax Inquisitor System in Ohio," Economic Studies, vol. iii, pp. 167–212 (1898); also Bogart, Financial History of Ohio, pp. 219, 239–242.

[3] There may seem to be some doubt as to the accuracy of this statement in view of the language of the act of 1913, which provides that the assessor shall " list and value " property for taxation. But the sections governing the listing and valuing of property were not changed by that act, and the tax commission seems to have considered their change essential to its plan. See Recommendations, pp. 57, 58.

of the opposition to various features of the bill, as well as their intrinsic unsatisfactoriness, led the administration to withhold its support, altho it favored a bill revising the administrative machinery of the tax system and intimated that a more thoro going revision of the methods of taxation might be undertaken at a special session of the legislature, to be convened in 1914.

In the legislative session of 1911, there had been introduced a bill providing for a system of appointive county assessors,[1] which failed of passage through disagreement between House and Senate as to the appointive power. This bill was the pattern for the administrative sections of the commission's bill, which were now redrafted and after some amendments became the so-called Warnes law of May 6, 1913.[2]

The act constitutes each county in the state an assessment district, and provides that the governor shall appoint an assessor in each of the smaller districts and a board of two assessors in each district which contained at least 65,000 inhabitants at the last preceding federal census.[3] The assessor's tenure of office is indefinite. In each district there is created a board of complaints, having three members appointed by the tax commission with the consent of the governor for overlapping terms of three years. Both assessors and members of boards of complaints are removable by the tax commission with the consent of the governor. These officers are not within the classified civil service, being appointed by, or with the consent of, the governor;[4] but all their subordinates are under civil service rules.

[1] H. B. 395, by Mr. Edwards. Similar measures had been recommended by Governor Foraker in his messages of April 6, 1886, and January 4, 1887, and by the special commission of 1893. See Report, pp. 45, 46, 71–77.

[2] 103 Ohio Laws, 786.

[3] There are fourteen such counties in a total of eighty-eight.

[4] Section 8 of the Civil Service Act, 103 Ohio Laws, 698. The act does not make entirely clear the position of members of boards of complaints, but it has been construed

The powers of these officers are comprehended in the statement that they shall, " under the direction and supervision of the tax commission," assess for taxation all real and personal property in their respective districts, except the property of public utilities, which is assessed by the tax commission. The powers of the former elective assessors, appointive city boards of review, and *ex-officio* county boards of review and equalization, and the powers of county auditors in the assessment of property, are transferred by blanket provisions to the newly created district assessors and boards of complaint.

The authority of the tax commission is seen not only in the general provision that it shall " direct and supervise " the assessment of real and personal property, but in various detailed provisions defining and explaining that authority. The commission is empowered to prescribe forms and to make and enforce rules and regulations for the assessment and valuation of property for taxation. The salaries of assessors and members of boards of complaints are to be fixed within specified limits by the commission with the consent of the governor. The number and terms of service of all subordinates and employees of assessors and boards of complaints are to be fixed by the commission, which has also the power of approval of the salaries of such subordinates. The commission fixes the time within which boards of complaints must complete their work.[1] Appeals lie from the board of complaints to the tax commission, which may, however, make an independent investigation of the matter in complaint.[2] Assessors

as stated in the text by the attorney-general in Opinion No. 899, dated April 29, 1914. See also Opinion No. 661, December 27, 1913.

[1] Members are paid on a *per diem* basis.

[2] The commission has always possessed the power to make changes in the valuations of real or personal property. See 101 Ohio Laws, 399, Section 81.

and boards of complaints are required to perform such other duties as the commission may direct, including attendance at conferences with the commission or with other assessors and members of boards of complaints. The power of the commission as a state board of equalization is extended to the annual equalization of the valuations of both real and personal property,[1] and to this end the commission may increase or decrease the valuation of the real or personal property, or of any class of either in any taxing district or division of a municipal corporation, or may order a re-assessment of any such property.[2]

Under the former law, boards of review and equalization might add omitted property and change assessors' valuations on their own motion, and were to that extent boards of original assessment. It was the intention of the Warnes bill to concentrate authority and responsibility; and in harmony with this idea the board of complaints was made strictly what its name implies. But in the haste of the last few days of the session an amendment was offered and accepted which gives the board power to make changes in valuations "upon its own initiative," a power which is entirely inconsistent with the provisions of other sections, and which might operate to impair the quality of the assessor's work through the opportunity thus afforded to throw the responsibility for difficult or unwelcome assessment work forward to the board of complaints. In its instructions to boards of complaints, the tax commission

[1] Heretofore the commission has equalized the valuations of real property quadrennially. There has been no state-wide equalization of personal property, except of bank shares and, formerly, of the property of transportation and transmission companies, now assessed by the commission.

[2] These provisions somewhat extend the powers of the commission under the act of 1910. See above, p. 482.

has limited their activities to reviewing complaints; but it is not certain that the courts will sustain this restriction, if brought to their attention.[1]

The Warnes law, then, creates a body of assessing officials who, by reason of their tenure of office and emancipation from political obligation to the electorate, occupy a unique position in the history of the American general property tax. Moreover, the coördination of the work of the several assessors through the direction of the tax commission serves greatly to enhance the efficiency of assessment. How this was accomplished in 1914 is described by Governor Cox in his message to the legislature convening in extraordinary session July 20 last. He said:

"The state commission was able to secure close coöperation between the district officials in the eighty-eight counties — something impossible except under the centralized authority plan; mortgages were copied and exchanged, lists of taxable securities, with the names and addresses of holders, were distributed, and from this source approximately $100,000,000 of taxable values were secured. There was also an interchange of other useful information. The commission kept in constant touch with the work in the counties; district assessors required daily reports of the work from their deputies; and the district assessors reported weekly to the tax commission. In addition, three traveling examiners inspected the work, for the purpose of verifying reports and to give assistance. In this manner the commission was able to secure uniformity in the assessment of the several classes of personal property in the various counties."

If the new law is to be judged by its immediate effect on property valuations, it must be unequivocally approved. As early as midsummer, the unrevised returns of assessors indicated an increase of approximately one billion dollars in the grand duplicate, and on this showing the administration ventured to cut the tax rate for

[1] See above, p. 507, note, for a case in which the commission's instructions were

state purposes in half.[1] A better test of the law's results, however, will be found in the relative increases in the valuation of different classes of property. These increases are presented in the following table, together with the per cent distribution of property in 1913 and 1914.[2]

TABLE III

PROPERTY VALUATIONS BY SPECIFIED CLASSES, 1914, PER CENT INCREASES OVER VALUATIONS OF 1913, AND PER CENT DISTRIBUTION OF PROPERTY, 1913 AND 1914
(Amounts in millions)

Class of Property	Valuations	Per cent Increase Over 1913	Per cent Distribution 1913	Per cent Distribution 1914
Real Estate	$4,606.0	4.2	65.8	60.8
Personal Property	2,976.4	28.4	34.2	39.2
Corporate Personalty	1,840.9	8.4	25.3	24.3
Banks	161.8	−12.2	2.7	2.1
Public Utilities	1,096.1	3.6	15.7	14.5
Miscellaneous	583.0	27.9	6.8	7.7
Tangible	446.3	13.3	5.9	5.9
Intangible	136.7	121.2	.9	1.8
Personalty of Individuals	1,135.5	79.6	9.4	14.9
Tangible	464.1	18.2	5.8	6.1
Intangible	671.4	180.0	3.6	8.8
Total Intangible Personalty	808.1	168.0	4.5	10.7
Grand Duplicate	7,582.4	12.8		

The most significant fact brought out by the table is that the principal increases have occurred in those classes of property whose valuation has heretofore been determined almost exclusively by the owner's return, —

[1] This was one of three laws enacted at the extraordinary session of the legislature which convened and adjourned July 20, 1914. The original and revised levies for the several funds are appended:

	Original Levy	Revised Levy
Sinking Fund	.0335 mills	.0025 mills
Common School Fund	.3350 "	.0550 "
University Fund	.0925 "	.0925 "
Highway Fund	.5000 "	.3000 "
Total	.9610 "	.4500 "

[2] For furnishing me these figures in advance of publication, I am indebted to Hon. A. B. Peckinpaugh, vice-chairman of the tax commission.

the property of miscellaneous corporations and of individuals. Moreover, the improvement due to centralized assessment is shown to be most marked in the case of intangible property, the valuation of which has been increased by a round half billion dollars. For the first time in many years the share of the property tax falling upon intangible property has been materially increased.[1] What limited tax rates alone could not do has been accomplished with the assistance of centralized assessment. The assessment of intangible property is still, however, much less efficient than that of other forms of property. Less than three weeks before tax-listing day in 1914, state and national banks alone reported demand deposits of $416,409,000, and time deposits of $375,042,000, while the amount of moneys listed for taxation aggregated $148,600,000 and the total valuation of intangible property was $808,000,000. In view of these figures and of those cited above,[2] it can hardly be contended that more than half the taxable intangible property in the state has been reached.

Yet even this limited success of the Warnes law in enforcing the constitutional mandate that all property shall be taxed at a uniform rate is to be welcomed, tho less perhaps because it has, at least for the time, somewhat reduced inequalities among the owners of intangible property, than for other reasons. In the first place, the possibility of great improvement in assessment work has been demonstrated. This is an important step toward removing the fear of a declining revenue, which has so often stood in the way of effective tax reform in Ohio, as elsewhere.[3] In the second place,

[1] Not since 1870 has intangible property formed so large a proportion of all property on the grand duplicate.

[2] Cf. p. 500.

[3] It will be recalled that an ineffective system of administration stood in the way of the success of the Iowa five mills tax on intangible property. See Brindley, State and Local Taxation, vol. vi, pp. 407–418.

the results of the first year's operation of the new law emphasize anew the difficulty of securing even a reasonably complete assessment of intangible property so long as we attempt to tax it uniformly with tangible property, at a rate which — even tho limited — still takes one-fourth or more of the income from investments. For it is not to be expected that the assessments of subsequent years will show much improvement over those of 1914. The new broom has probably swept about as clean as it will sweep.

It is reported by brokers that the unexpected resourcefulness of the tax commission in procuring lists of stockholders in foreign corporations has already resulted in a considerable shifting of investments to those which are not taxable in Ohio. There are many such securities: the stock of all Ohio corporations, the stock of foreign corporations two-thirds of whose property is taxed within the state,[1] and bonds of Ohio municipalities issued prior to 1913. For the investor who desires to avoid stocks and yet gain a higher rate of income than municipal bonds ordinarily yield, and who does not scruple to conceal his investments, there are ample opportunities in fields of which there is no public record, such as coupon bonds and promissory notes. Nor is it ordinarily difficult to evade taxation by investing in foreign mortgages, or through non-resident investment agents, or by a number of less common devices. In sum, the door is by no means closed to the tax-dodger, nor is the tax rate in Ohio low enough (if indeed any rate is low enough) to remove the inducement to evasion. This is merely to say that the assessment of intangible property under the existing system remains

[1] In practice, this means that the stock of most foreign corporations doing business in the state is deemed to be non-taxable. See Report of the Tax Commission, 1911, p. 6. But the power of the tax commission is now ample to determine the question of taxability, and to place taxable stocks on the list.

and must remain largely haphazard. Concealment and evasion have been made less easy for some classes of intangible property, but they are not difficult in cases where " information at the source " is not an available method.[1]

It is to be remembered that under the lax assessment methods previously obtaining, the tax on intangible property was at most only partially and very irregularly shifted. More rigorous assessment will, therefore, by reducing the net yield of investments, lead to the withdrawal of investors from those fields in which the tax can be most unfailingly assessed, as has been noticed in the case of foreign corporation stocks. The reduction in the supply of capital in these fields will then tend to increase the rate of return to capital which still braves the tax-gatherer. To be sure, the extent of this influence depends upon the scope of the market for the taxed investments. It will be inconsiderable in the case of the stocks of large and well-known foreign corporations, but it will probably be quite important in the case of mortgage loans upon Ohio real estate. It is true that a considerable portion of such loans is made by banking institutions not directly taxable on their mortgages, but it is probable that the rate of interest paid on deposits is influenced somewhat by the fact that deposits are taxable at the full property rate as moneys or credits.[2] The loan rate is of course directly related to the rate of interest paid on deposits. Loans by non-residents probably have little influence in depressing the rate of interest, as might on first view be expected, both

[1] This method is specifically prohibited in the case of bank deposits generally (tho not in specific cases) by an amendment which the banking interests succeeded in attaching to the Warnes bill. (103 Ohio Laws, 786, Section 52.) A similar section in the tax commission act of 1911 was vetoed by Governor Harmon. (102 Ohio Laws, 224, Section 162.)

[2] Such is the view of some of the more thoughtful and well-informed of Ohio bankers. See note by the writer in American Economic Review, December, 1914, pp. 965, 966.

because of their limited amount and because such loans are in most instances taxable in the state of residence.

The ultimate influence of the act upon the popular attitude on the taxation of intangible property is not altogether clear. On the one hand, as interest rates on mortgage loans rise in response to more certain assessment, the argument from the purse will tend to convert into tax reformers many of those who in the past have been the staunchest defenders of the uniform rule.[1] And if, as seems likely, the proportion (if not the actual amount) of intangible property on the duplicate declines in future, attention will again be directed sharply to the intrinsic unsatisfactoriness of the general property tax. On the other hand, it is not unthinkable that these forces may only result in renewed antagonism to the " money kings " and in a determination on the part of the rural element in the legislature [2] to force intangible property to contribute taxes in proportion to its value. If so, the plan promulgated by the tax commission in 1913 may be revived, or yet more drastic legislation be enacted, before the dawn of a brighter day for tax reform in Ohio. But whatever the popular verdict on the uniform rule, it cannot be gainsaid that the principle of centralized assessment has amply justified itself.

IV

By way of summary, the two main conclusions which flow from Ohio's recent experience in taxation may now be restated: first, centralization is an important, if not an indispensable, aid to effective assessment, particularly of intangible property, whatever the policy

[1] That the shifting of the tax on mortgages is understood by many farmers was shown in the constitutional convention of 1912 by the proposals introduced by rural members to exempt mortgages from taxation, while continuing the tax on other forms of intangible property.

[2] By reason of the county system of representation, the rural population has a disproportionate voice in the legislature.

adopted for the taxation of such property may be; and second, the general property tax cannot be bolstered up into a satisfactory system by the devices of limited rates and centralized assessment.

While centralization has approved itself, the method now in vogue for the selection of district assessors and members of boards of complaints is open to serious objection. These officers appear, upon the whole, to have been well chosen; but the conditions of their appointment have created, and will perpetuate, a suspicion of partisanship. Assessing officials should be removed as far as possible from all taint of partisan bias, and to this end the law should be so amended as to bring them definitely within the classified civil service. Unfortunately, the political situation in the state hardly warrants hope of the early adoption of such an amendment. In the recent state campaign, both Republicans and Progressives denounced the system of appointive assessors as tending to the creation of a political machine; and the incoming administration is virtually pledged to make the county assessor an elective officer, if not to restore the old system of township assessors. Such a change in the law would be particularly disappointing to those who hope to see the constitution so amended as to permit a radical revision of the tax system; for the success of such a revision will depend in no small measure on the experience and efficiency of the assessing corps. Moreover, it would be unwise to repeal the new law before it has had a fair trial, and return to a system of proved inefficiency. It is reported, however, that the governor-elect approves of central control of assessors, whether the assessors be elected or appointed. There is thus ground for hope that the state may retain most, if not all, of the advantages of the present system.[1]

[1] The Repuplican majority in the legislature now in session (April, 1915) planned to transfer to county auditors the powers of district assessors pending the re-establishment

Perhaps in no other state has the theory of the general property tax been more vigorously defended and the legislation supposed to be alone necessary for the successful operation of the tax been more cheerfully provided; yet the result is at best a partial and, in all probability, a temporary success. At present, public opinion still insists upon the enforcement of the uniform rule.[1] Nevertheless, it seems appropriate to conclude this paper with a suggestion of the lines along which a satisfactory reform of the property tax should proceed.

In view of the fact that the proposal to classify property for purposes of taxation has been so widely discussed in the state, it seems fairly certain that the first step in reform will be the adoption of a constitutional amendment providing for some degree of classification and according a low rate, rather than exemption, to intangible property. Advocates of classification in the state have seldom gone so far as to suggest the administrative measures by which the taxation of intangible property could be made effective; for the most part, they seem to have assumed that a rate of three or four mills would result in a satisfactory voluntary return of such property. The experience of Ohio as traced in this paper affords little warrant for such an assumption, but rather makes it clear that self-assessment should be avoided wherever possible. Intangible property should be reached through the taxation of the particular wealth which underlies it and gives it value, wherever that wealth can readily and certainly be identified. For example, corporations whose entire property is in the

of the system of elective assessors. On the failure of this bill, the tax commission, at the request of the governor, removed all the assessors and the governor has made new appointments.

[1] As I write, it is reported in the press that the tax commission will recommend that tax rates be further limited and that assessors be given greater power in the effort to secure a fuller assessment of intangible property.

state should be taxed on a valuation which takes full account of the value of stocks and bonds, and these securities should then be exempted in the hands of their holders.[1] Similarly, real estate mortgages should be exempted, or taxed as an interest in real estate. In principle, moneys and credits should also be exempted; but since the dependence of their value on that of some particular wealth is less readily seen than is the case with securities, it would probably prove to be politically expedient to tax them at a low rate — say three mills. As in Minnesota, this rate should be accompanied with the abolition of that most fruitful source of perjury — the privilege of deducting debts from credits. The revenue should further be safeguarded by imposing the tax at the source where practicable — for example, by taxing all classes of banks on their average deposits, and granting them the privilege of deducting the tax from the depositor's account.

There is stronger ground of principle for the taxation at low rates of investments representing in whole or part wealth outside the state. The obligation to pay taxes where one resides is not to be questioned in a federal state.[2] In the case of most foreign investments, reliance would have to be placed on personal declarations, under such restraints as careful administration may provide. In the case of investments in the stock of corporations chartered or doing business in the state, however, it would be practicable to impose the tax at the source; it should be levied on that proportion of the value of the shares which represents property owned or

[1] Such a plan would, indeed, at least for a time, increase the burden falling upon stockholders, but in the long run, interest rates on bonds would be so adjusted as to correct this. In any event, the plan proposed seems better than the present haphazard assessment of corporate bonds.

[2] See Bullock, "The Taxation of Intangible Property," State and Local Taxation, vol. ii, pp. 127–137, 164, 165; Taussig, Principles of Economics, vol. ii, pp. 539–541, and Seligman, Essays in Taxation, 1st ed., pp. 110–114.

business done outside the state.[1] This proportion could readily be determined by the tax commission, and could be applied as well to the bonds of foreign corporations, the assessment of which would, however, have to depend mainly on personal declaration. It must be admitted that political expediency might force the imposition of similar taxes on domestic investments; but such taxes would be more equitable as among the owners of intangible property, and hence less objectionable, than those now imposed by the law.

For such a system of taxation there is much to be said on both theoretical and practical grounds. To a large extent, it will do away with the double taxation of property and wealth.[2] Even where double taxation is not abolished, it will at least be mitigated by the lower rates on intangible property, and by the nearer approach to universality which may be expected to result from low rates and competent administration. There will then be less warrant for the cry of "unjust" double taxation, and the ethics of tax-paying will tend to reach a higher plane. Finally, the revenue results of such a system are not to be despised. From bank deposits alone, a tax of three mills would yield in the neighborhood of $2,500,000, or about two-thirds the yield of all taxes levied upon intangible property in Ohio in 1912 or 1913. The proposal made for the taxation of the securities of foreign corporations would not effect any material permanent reduction in the revenue from security holdings in foreign corporations, for the amount of such securities heretofore taxed has been relatively

[1] In the light of the principle of "economic allegiance," the present exemption of the shares of domestic corporations, regardless of the location and taxation of their property, is indefensible. Nor can the franchise tax of three-twentieths of one per cent on the capital stock of corporations be held fairly to offset this exemption.

[2] The writer believes that the distinction between the terms "property" and "wealth" should be strictly observed. Such phrases as "intangible wealth" have no meaning with reference to the taxation of moneys, credits and investments.

small. It does not seem extravagant to expect that under such a system as is here proposed, the yield from intangible property would be greater than can be permanently drawn from it under even the best administration of the general property tax.

OLIVER C. LOCKHART.

OHIO STATE UNIVERSITY.